

UNITED STATES DISTRICT COURT

ORIGINAL

FOR THE EASTERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE
WILLIAM B. SHUBB, DISTRICT JUDGE PRESIDING

UNITED STATES OF AMERICA,)	Case No. 2:21-cr-00111-WBS
)	
Plaintiff,)	Trial Day 7
)	
v.)	Closing Arguments
)	
ROBERT ALLEN POOLEY,)	Date: Thursday, May 23, 2024
)	
Defendant.)	
)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Pages 1 through 44

APPEARANCES:

For the Plaintiff:	UNITED STATES ATTORNEY'S OFFICE 501 I Street Suite 10-100 Sacramento, California 95814 By: KATHERINE THERESA LYDON, ESQ. By: DHRUV M. SHARMA, ESQ.
For the Defendant:	OFFICE OF THE FEDERAL PUBLIC DEFENDER 801 I Street 3rd Floor Sacramento, California 95814 By: MIA CRAGER, ESQ. By: MEGHAN MCLOUGHLIN, ESQ.

OFFICIAL REPORTER:	Abigail R. Torres, CSR, RPR/RMR, FCRR CSR No. 13700 United States District Court Eastern District of California 501 I Street, Suite 4-100 Sacramento, California 95814
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*Proceedings recorded by mechanical stenography. Transcript
produced by computer-aided transcription.*

1 **SACRAMENTO, CALIFORNIA; THURSDAY, MAY 22, 2024; 9:09 A.M.**

2 -oOo-

3 (The jury panel entered the courtroom.)

4 THE COURT: All the jurors are present. Defendant is
5 present with counsel.

6 There used to be a judge on this court years and years
7 ago who used to remark that anything with more moving parts
8 than a crowbar is bound to break down, and he had no idea of
9 what modern technology would come up with in the years to come.

10 We had a short delay this morning because the lawyers
11 want to use some technical equipment in making their arguments,
12 and we had a whole group of people in here from various
13 departments trying to set it up so that it would work, and I'm
14 not sure it works the way they want it to work yet, but it
15 works enough so that we can proceed with the opening argument
16 on behalf of the Government.

17 Now, I want to remind you that the statements of the
18 lawyers, what they say or what they show you, is not evidence
19 in the case. If anything that the lawyers say is not supported
20 by the evidence, then you should disregard it.

21 Just as an example, you may recall that in the opening
22 statements, one of the lawyers made some comment with regard to
23 the reason for Mr. Pooley's privileges being suspended by the
24 USPA. Well, there's no evidence of why his privileges were
25 suspended, and there's good reason for that. It has nothing to

1 do with the case. It could be a number of reasons that they
2 talked about in the process. Don't forget, this is not a
3 Government agency, the USPA, and there could be a number of
4 reasons that they talked about, and they could be disputed.

5 And if we were to get into those reasons and the
6 dispute over those reasons in this trial, it probably would
7 have lasted twice as long and distracted your attention from
8 the issues in the case.

9 So if you heard anything like that, disregard it.

10 All right. Now, we'll begin with the argument on
11 behalf of the Government.

12 I understand, Ms. Lydon, you're going to make that
13 argument.

14 MS. LYDON: Yes. Thank you, Your Honor.

15 THE COURT: You may proceed.

16 MS. LYDON: Thank you.

17 Is this mic working? Yes.

18 Good morning. The defendant, Robert Pooley, made
19 promises he wasn't allowed to make and that he knew he couldn't
20 keep. Over the summer of 2016, the defendant held himself out
21 as a tandem instructor candidates as an examiner, someone
22 certified to award ratings that would allow those skydivers to
23 make tandem skydives throughout the United States and all over
24 the world. Pooley hid the reality from those students that his
25 tandem examiner rating was suspended, and the reason that he

1 hid that fact was so that he could get money.

2 The defendant and Parachute Center received over a
3 thousand dollars cash from each tandem instructor candidate
4 that walked through the door to take his tandem instructor
5 courses, and a key thing that they paid for was the signature
6 of a certified examiner on their USPA and UPT certification
7 forms.

8 Now, at the end of the course, Pooley either didn't
9 deliver that paperwork at all or he provided doctored paperwork
10 with the signature of Yuri Garmashov.

11 That's the story that you've heard over the course of
12 this trial. It is -- until now, all of the evidence of that
13 story has come in piecemeal with each document and piece of
14 witness testimony telling its own slice of the story. It's now
15 time to weave that evidence together and apply it to the law.

16 All right. You're going to ask -- to be asked to
17 decide six counts. I'm going to spend the rest of this
18 presentation going over those counts and the charges in great
19 detail, but for now, here is the big picture.

20 The first four counts charge wire fraud. All of the
21 wire fraud counts concern the same overall scheme that we just
22 talked about to defraud the tandem instructor candidates.

23 The specific counts are each e-mails set in
24 furtherance of the scheme. So the specific wirings are all
25 just instances in which the defendant used e-mail to further

1 his scheme.

2 We'll list the e-mails. Count 1 is an e-mail from
3 Fabrisio Palomino to Parachute Center on June 28, 2016.

4 Count 2, an e-mail from Pooley to Palomino on June 29,
5 2016; Count 3, an e-mail from Palomino to Pooley on the 4th of
6 July; Count 4 is an e-mail on August 1st from Pooley to USPA
7 and Lachlan Mackay. All right. The inspected -- Counts 5 and
8 6 charge aggravated identity theft.

9 We'll go over this in great detail throughout the
10 presentation.

11 But big picture, that's where the defendant issued
12 Yuri Garmashov's signature to commit the wire fraud charged in
13 the indictment to commit that scheme to defraud.

14 And Count 5 concerns Pooley's use of Garmashov's
15 signature on Yeonghon Kwon's form -- forms. And Count 6
16 concerns his use of Garmashov's signature on Lachlan Mackay's
17 forms. All right.

18 Now, your job at the end of these arguments would be
19 to find the facts and apply the law. The facts are going to be
20 in the exhibits which you'll have in the jury deliberation room
21 with you, the testimony that you've heard, and stipulations or
22 agreements between the parties.

23 The lawyers' statements, just like the Court just told
24 you, are not evidence. If anything that I say or Ms. Crager
25 says conflicts with your recollection of the evidence, your

1 recollection controls. And you then will apply the law that
2 the Judge will give you in the jury instructions to those
3 facts.

4 Quick note on Government evidence organization. The
5 main documents supporting the six counts have exhibit numbers
6 that correspond to the count number; so that e-mail from
7 Fabrisio Palomino to Pooley in Count 1, that's Exhibit 1, and
8 so on. The same documents support Counts 4 and 6 of the
9 indictment, so that document is in evidence as Count 4.

10 Then the series of exhibits pertaining to specific
11 people are in the 20 series through the 60 series. 20s are
12 about Palomino; 30s, North; 40s, Munoz.

13 You don't have to write this down. You'll get a sense
14 of it when you look at the exhibits, but I just wanted to give
15 you a sense of where to find things.

16 Documents pertaining to other victims and other --
17 other people are sort of sprinkled throughout the exhibits.
18 For example, there are documents pertaining to the
19 border-crossing records of many folks in the 1400 series. And,
20 generally, the exhibits are chunked somewhat by category. So
21 the 200 series is Pooley's deposition videos, and 800 series
22 are the search warrant photos and so on.

23 One quick note, you will not get a copy of this
24 presentation, so if a particular document or a particular piece
25 of evidence seems important to you, jot a quick note for

1 yourself.

2 During the rest of this closing presentation, I will
3 explain the things that the Government is required to prove
4 about each crime, called "elements of each crime in order to
5 convict."

6 Elements are like a checklist. Once you find that an
7 element has been met, you check it off, and you move on. And
8 once you get -- once you've checked off all of those elements,
9 you find the defendant guilty.

10 Most of the time in this closing will be spent on the
11 one element that the defendant really disputes, which is
12 whether the defendant scammed the tandem instructor candidates
13 by holding himself out as an examiner when he wasn't, as the
14 evidence has shown, or whether he was honest with the victims,
15 and they knew the deal and were in on it, as you heard from the
16 defense at the beginning of the trial.

17 At the end of this presentation, once I've explained
18 the evidence proving each element of each count, I'll ask you
19 to return the only verdict consistent with the evidence, and
20 that's guilty. All right. All right.

21 So these are the short versions of the elements. And
22 I'm going to go through the elements in a -- in a short way
23 throughout this presentation. You'll have the full elements
24 and jury instructions with you.

25 Let's start with wire fraud. So there are four

1 elements of wire fraud. Again, these are simplified. The
2 defendant knowingly participated in a scheme to obtain money by
3 false or fraudulent pretenses, representations, promises, or
4 omitted facts. Second, the statements were material. Third,
5 the defendant had an intent to defraud; and, finally, that he
6 used wire communications, e-mails, in furtherance of that
7 scheme.

8 Let's start with the first element, that the defendant
9 knowingly pretended to be a legitimate examiner to get tandem
10 instructor candidates' money. We'll do it in pieces because
11 there's a few -- a lot of words in that first one. Most of
12 them are easy.

13 It was obviously a scheme to obtain money. There's
14 the safe in Parachute Center. The defendant didn't do this for
15 free.

16 Brad Palomino -- I'm sorry -- Brad North paid him a
17 thousand dollars, \$100 -- \$1100 in cash. Fabian Munoz paid him
18 \$2,000 for the tandem course and the coach course. Fabrisio
19 Palomino paid him \$1100. There's a scheme to get money, and
20 Pooley participated in it.

21 Now, beyond participated, this was Pooley's scheme.
22 He had told the skydivers to come to the course. He took their
23 money. He taught the course. He jumped with them. He gave
24 them the USPA and UPT forms with preprinted signatures.

25 And he used other people, too. Bill and Katie Dause,

1 for example, sent students looking for ratings to him while he
2 was suspended.

3 And he acted knowingly. You'll get a jury instruction
4 on the definition of "knowingly." It means an act is done
5 knowingly if the defendant is aware of the act and does not act
6 through ignorance, mistake, or accident. And, of course,
7 Pooley knew he was an examiner and couldn't get ratings -- give
8 ratings. He was suspended, he acknowledged he was suspended,
9 and he still continued teaching the courses.

10 Let's walk through that evidence.

11 Pooley was suspended. He knew he was not a rated USPA
12 and UPT examiner and he couldn't bestow tandem instructor
13 ratings because USPA told him so. On August 7th, USPA sent --
14 of 2015, USPA sent Pooley a letter suspending him for a year.
15 And UPT told him so. The manufacturer sent him its suspension
16 letter about ten days later.

17 So Pooley knew he was suspended and, of course, after
18 getting these letters, he clearly knew it, and he admitted he
19 knew it in his e-mail exchange with Jim Crouch, the director of
20 safety and training at USPA, and the first victim -- or the
21 first witness that you heard from in this case.

22 Let's start with what Crouch e-mailed Pooley. Jim
23 Crouch wrote Pooley on August 28, 2015: "I just wanted to make
24 sure you understood that the suspension applies to both coach
25 and tandem courses." And he said: "The courses must be run

1 completely by other examiners from start to finish."

2 Pooley could participate as an evaluator, but he
3 couldn't run the courses.

4 And let's see what Pooley said in response: "I
5 understand the terms of the suspension," Pooley stated. He
6 knew they need to be run by another instructor examiner. And
7 Pooley took it seriously.

8 And we'll go through every single document in this
9 presentation where it would be far too long, but you saw other
10 evidence of -- for example, he appealed. That's Government
11 Exhibit 912. He asks the letter -- the USPA to reconsider his
12 suspension.

13 And what does that tell you? It tells you he knew he
14 was suspended. What did he do with that knowledge? He still
15 held himself out as an examiner so he could keep making money.
16 For this scheme to work, he had to keep pretending to be an
17 examiner, and he did that in a few ways. He did it by actually
18 lying to the students and telling them that he was an examiner,
19 and that he would give them ratings. He did it by acting like
20 an examiner and making students believe that he was one, and he
21 did it by keeping a secret from them by simply not telling them
22 that the examiner's ratings were suspended.

23 Now, there are legal phrases in the jury instructions
24 to describe the ways that Pooley deceived the students -- or
25 the tandem instructor candidates; "false or fraudulent

1 pretenses, representations, promises, or omitted facts."

2 And this part of the element is where the action is in
3 the case, so I'm going to spend most of the presentation on it.

4 Now, you only need to find that he deceived the
5 students in one of these three ways, but in this case, you
6 heard evidence that he used all of them. We'll go through them
7 one by one, starting with the straight-out lies, the false
8 representations and promises.

9 So let's look at what he told Brad North. On the last
10 day of the course when Brad North saw Garmashov's signatures on
11 the forms and flagged them, questioningly, Pooley falsely told
12 North, "Yuri is supervising the course."

13 Then you saw the text messages where Pooley makes more
14 false statements. On July 14th, Pooley promised North, "I will
15 send the paperwork in Monday." This wasn't true. Pooley knew
16 he couldn't send the paperwork in to USPA or UPT. Yuri was out
17 of the country. Submitting the paperwork would raise red
18 flags, would blow the whole scheme up and put a stop to the
19 classes and Pooley's income stream.

20 On August 4th, Pooley claimed to North that, "I sent
21 your docs to Yuri for review." Well, a search warrant to
22 Google for both their accounts didn't find such evidence
23 because Pooley didn't send them, you can infer.

24 The purpose of all these lies was to convince Brad
25 North that everything was fine, things were moving along toward

1 his ratings, and allowed Pooley to keep running the classes and
2 the scheme.

3 Let's look at what he told Fabrisio Palomino. When
4 Palomino showed up at Lodi Parachute Center, Pooley told him,
5 "I can't be there for the jumps today. I'll meet you at Lodi
6 on Sunday and sign your paperwork."

7 That wasn't true. He wasn't going to sign the
8 paperwork. He knew he was going to use Yuri's preprinted
9 forms. And then he told -- after the -- they'd done the
10 paperwork and Fabrisio had filled it out, Pooley told him,
11 "I'll send it in to USPA and UPT." That's false for the same
12 reason we talked about with Brad North.

13 There were also false statements by others at
14 Parachute Center to tandem instructor candidates. The way that
15 the scheme worked was people who wanted to be tandem
16 instructors would reach out to Parachute Center, and Parachute
17 Center, Bill and Kathy Dause, would funnel them to Pooley.

18 And the documents indicate that Parachute Center
19 personnel told the tandem candidates that Pooley was a
20 certified instructor examiner who could give them tandem
21 ratings during the suspension.

22 You saw this -- communications like this from Fabrisio
23 Palomino, for example, in his words, in the wake of the fraud.
24 And it's a little coarse. He was angry, but he's expressing to
25 his friend what happened, and he says, "I went to get ratings

1 to Lodi. Bill told me Rob was my examiner."

2 Similarly, in this e-mail, Fabrisio Palomino wrote:
3 "Bill Dause and Pooley asking for accountability from Bill
4 Dause since you refer me to him as your drop zone examiner."

5 The false statements by Bill Dause are another way
6 that Pooley ran his scheme to defraud.

7 Moving on to Fabian Munoz. Before the course when
8 Fabian was in Chile, and he was on the phone with his friend
9 Carlos Hunvaid [phonetic.] Carlos handed the phone to Rob
10 Pooley. Rob Pooley told Fabian Munoz, "I'm a USPA examiner"
11 and also, in the same conversation, said, "I'll sign the
12 paperwork."

13 And then after the course when he didn't get paperwork
14 and Fabian Munoz was following up with him over and over,
15 Pooley told him, "No, no, don't report me to USPA. I'll get
16 the paperwork to you tomorrow."

17 You can infer that was false. He didn't do it. He
18 didn't intend to.

19 And Rob's Pooley's own testimony is the best evidence
20 of what Pooley told Yeonghon Kwon about who he was.

21 Now, elsewhere in the Pooley deposition, he sticks to
22 his story that Yuri was somehow supervising the course from
23 another continent, and that he was the evaluator helping with
24 it. But here he slips up, and he tells the person taking that
25 deposition -- what you can infer he told the students,

1 including Yeonghon Kwon, he claims he was the examiner.

2 (Media played.)

3 MS. LYDON: There you go. We'll go through these
4 quickly. Just more false promises and representations by
5 others at Parachute Center that helped Pooley run the scheme.
6 You don't have to read all of this and write it down, but I
7 want to flag some recurring themes.

8 In response to this tandem -- this person interested
9 in tandem ratings, Kathy Dause wrote: "I'm going to give you
10 Rob Pooley's e-mail address and phone number. He is the one
11 that gives the tandem ratings."

12 This is during the suspension. Rob Pooley does not
13 give the tandem ratings.

14 Again, on October 3rd, 2015, Kathy Dause wrote: "Rob
15 Pooley can switch you over to the Sigma UPT rating."

16 No, Rob Pooley cannot do that.

17 And the false statements of certification using
18 Garmashov's signature and name, and even in once instance,
19 sending those to USPA, those were false statements too, and
20 they were false statements through which Pooley ran his scheme.

21 He put Garmashov's signature next to statements
22 attesting that the examiner had been present and certified.
23 And by using forms with Garmashov's signature attesting
24 Garmashov did things that he never did, Pooley provided
25 students paperwork purporting to be signed by a legitimate

1 examiner, and this was false.

2 The effect of providing that paperwork purporting to
3 be signed by a legitimate examiner was to tell the students
4 that they had a rating, that they had been probationarily
5 certified by an examiner, and they could jump. That wasn't
6 true.

7 You heard Jim Crouch's testimony, while going through
8 sample tandem cars, that if the examiner who signed it wasn't
9 certified or if the signature was forged, then it didn't count.
10 So Kwon, Mackay, the others who got those doctored forms, you
11 can infer had been told they were certified, even though on --
12 they never actually had been. Okay.

13 So that's the straight-out false statements.

14 He also engaged in a lot of false pretenses, and
15 that's a basis for conviction. Pooley gave students the false
16 impression he was an examiner through things like e-mails to
17 students, setting up courses, acting like an examiner by
18 running the courses, and providing and filling out ratings
19 forms. And he gave that impression to a lot of people.

20 Let's look at some e-mails. You don't have to read
21 all of these in the presentation. They're all in evidence.
22 I'm just giving you a flavor of some recurring themes.

23 The e-mails show that Pooley knew the students were
24 looking for tandem ratings. The e-mails mention the words
25 "tandem," "ratings," "license," "UPT," "USPA." And even though

1 he was suspended and not allowed to do these courses
2 unsupervised, Pooley routinely e-mailed prospective tandem
3 instructor candidates, "We can do it here any time you want."
4 Not "At a time when there's a rated examiner here to supervise
5 me."

6 Also, quick point on time period. So the conspiracy
7 charged here is for the summer of 2016, the period where
8 Garmashov was out of the country. But Pooley and Parachute
9 Center broadly, from the evidence, were running a similar
10 scheme starting immediately after his suspension.

11 And during his entire suspension, Pooley held himself
12 out as an examiner. He directly claimed, "We can all do all
13 the USPA stuff. No problem." He couldn't do USPA stuff no
14 problem. He had a big problem. His rating was suspended. So
15 these representations are relevant to how he was holding
16 himself out during the period of his suspension.

17 Another example of this one is from Kathy Dause
18 holding him out as an examiner. She e-mailed students seeking
19 tandem ratings, telling them to reach out to Rob Pooley. This
20 was a false pretense. It gave the students the impression he
21 was an examiner who could get them ratings. Often she forwards
22 them to Pooley or copies Pooley.

23 And Pooley doesn't respond to these e-mails saying,
24 "No, I'm not. You'll have to go elsewhere." He does the
25 opposite. We've got the examples of him setting up courses

1 with students like Fabrisio Palomino.

2 One of the false pretenses that Pooley put on was by
3 conducting courses like he was the examiner. For Fabian Munoz
4 and Brad North, he did things that examiners are supposed to
5 do. For Palomino, he just showed up to collect money, do a
6 couple jumps, and handle the USPA/UPT forms. And you have
7 Pooley on video explaining how he conducted Kwon and Brad
8 North's course.

9 (Media played.)

10 MS. LYDON: So Pooley states he coordinates courses,
11 assigns evaluators, and performs other functions, which you
12 heard from Jay Stokes are the responsibility of the examiner.

13 By doing these things --

14 THE COURT: A lot of moving parts out there.

15 MS. LYDON: I'll step away.

16 THE COURT: Does anybody here know what the problem
17 is? There's a feedback on one of the microphones, but I don't
18 know which one.

19 MS. LYDON: All right. Thank you.

20 By doing these things, Pooley reinforced the students'
21 impression that he's an examiner.

22 Tandem certification forms, Pooley also provided at
23 least some students with the USPA and UPT ratings certification
24 forms. We'll talk about these quite a bit with response --
25 concerning specific counts and specific documents, so I won't

1 spend much time on this now.

2 But you've heard evidence that the examiner is the
3 person in charge of guiding the students through these forms,
4 and by carrying out that role, by directing the students to
5 fill in dates and jump information and give the forms back to
6 him so that he could submit them, Pooley further falsely
7 indicated to the students that he was their examiner.

8 So these are the ways that Pooley used false pretenses
9 to defraud his students in addition to the explicit false
10 statements.

11 Let's move on now to the secret that he kept from the
12 skydiving community and, specifically, all of the tandem
13 instructor candidates.

14 So in addition to the ways that we just discussed,
15 Pooley did not -- then he would claim to be and falsely held
16 himself out as an examiner. Pooley did not disclose to the
17 tandem instructor candidates that his examiner ratings were
18 suspended.

19 And the Judge will instruct you in the wire fraud
20 instruction that omissions of material fact are a little
21 different than false statements and pretenses.

22 To convict based on the material omissions, you need
23 to find that Pooley had a relationship of trust between -- with
24 him and the tandem candidates.

25 Now, realistically, holding himself out as an examiner

1 is the same thing as -- in terms of the behavior that he
2 engaged in is much the same thing as failing to disclose that
3 his ratings were suspended.

4 So it's a bit academic. But you have ample evidence
5 to convict, either way, because they did have a relationship of
6 trust. Pooley did have a duty to disclose his suspension
7 because the relationship was a relationship of trust.

8 Pooley's course was the first time any of the students
9 had jumped out of an airplane wearing an unfamiliar tandem rig,
10 very different from the rigs that they had jumped in solo as
11 the parachutist in command.

12 Some of the students' first couple jumps were with
13 Pooley. It's common sense. It's hard to imagine a situation
14 where there would be more trust than when you jump out of a
15 plane, strapped to someone's chest or back, and they're in
16 control of the parachute.

17 And by the time the students finished the courses,
18 they needed to know the skills to get themselves and someone
19 else to the ground safe and sound.

20 So as Fabian Munoz -- and this picture is Fabian Munoz
21 doing just that for the first time with a customer in this
22 picture -- in this video still.

23 As Fabrisio Palomino explained, there's a level of
24 trust among skydivers. It's a small community. We take care
25 of each other every time we get in an airplane. And you also

1 see the relationship-of-trust dynamic in play with how two of
2 the victims responded when they saw those forms with
3 Garmashov's signature on them.

4 Brad North asked him about it, and Pooley claims that
5 Yuri was supervising the course, and Brad didn't press him
6 further. He followed Brad's -- Pooley's instructions to put in
7 the dates on the card.

8 Fabrisio Palomino also saw that the documents Pooley
9 handed to him had looked like they had preprinted signatures on
10 them. It looked like they were photocopied. And he didn't
11 ask. He explained he was rushing to get a train. And he just
12 saw it was signed. But Rob Pooley told him he would send it to
13 USPA and UPT. And Fabrisio Palomino testified he trusted him.
14 As he put it, "The examiner is like your professor. He takes
15 you from beginning to end."

16 Because of that relationship of trust, Pooley was
17 obligated under the law to tell the students his ratings were
18 suspended, and he didn't, and he hid that from them to keep
19 making money.

20 So you can check off that first element of wire fraud.
21 The defendant knowingly participated in a scheme to obtain
22 money by false or fraudulent pretenses, representations,
23 promises, or omitted facts.

24 The rest of the elements will go much faster.

25 Next, the statements were material. Let's move to

1 that element. So the Judge will instruct you that false
2 pretenses and false statements are material if they have a
3 natural tendency to influence or are capable of influencing a
4 person to part with money or property.

5 Pooley's false pretenses that he was an examiner who
6 could get the students ratings, obviously, was capable of and
7 did influence his students to part with money. Each testifying
8 victim explained that the only reason they paid Pooley to take
9 his course was they believed that he was a USPA and UPT
10 examiner who could give them those USPA and UPT ratings.

11 North, Palomino, and Munoz were each asked, "If you'd
12 known that his ratings were suspended, would you still have
13 taken his course?" And they all said absolutely not, in sum
14 and substance.

15 These ratings mattered for people like this who wanted
16 to make a living as tandem instructors. They mattered to the
17 other people, you saw evidence of in the e-mails, the broader
18 tandem instructor class.

19 This group of people wrote in the e-mails referring to
20 tandem rating courses, asked specifically about the
21 availability of an examiner. And the value of the ratings made
22 a lot of economic sense, as you understand from the testimony
23 of many of the witnesses, including the victims.

24 Now, the folks on this page, testifying victims and
25 Kwon, each had their own particular reasons in their lives that

1 USPA and UPT ratings were an opportunity for them that would
2 make their life better, that they were willing to pay for.

3 Fabian Munoz told you that he took the course because
4 he needed ratings for his career in Chile. USPA was the
5 certification accepted at the drop zone where he worked. And
6 other drop zones in the area, it would allow him to work there
7 as well.

8 Brad North told you that he was a tandem videographer,
9 and he wanted to become a tandem instructor because it was more
10 dependable work, especially with the advent of GoPros, that it
11 was more steady and it was more highly paid.

12 Fabrisio Palomino wanted to be able to tell the
13 customers at his drop zone that he was UPT-rated. He explained
14 that it makes you more legit. And he testified that now he and
15 all of his instructors are USPA- and UPT-rated.

16 And, again, misspoke. He wanted to tell the customers
17 he was UPT- and USPA-rated.

18 Now, Kwon has passed away, but you heard a recording
19 of Pooley explaining exactly why Kwon wanted to take his
20 course. He wanted to get that USPA and UPT rating.

21 Let's see what Pooley said.

22 (Media played.)

23 MS. LYDON: So --

24 (Media played.)

25 THE COURT: The jury is having a hard time hearing it.

1 I don't know if there's anything more you can do. That's one
2 of the problems we had with the equipment.

3 But if you can probably move that microphone, you
4 should have that closer to the speaker.

5 MS. LYDON: Should I stand close to it while I'm --

6 THE COURT: No. It's that microphone.

7 Isn't that the other microphone, Karen?

8 (Brief pause in proceedings.)

9 THE COURT: Go back to the beginning of this cut.

10 MS. LYDON: Yes. Let's try this again, and let's hear
11 what Pooley said about why Kwon wanted those tandem ratings.

12 (Media played.)

13 MS. LYDON: All right. Is that tech workaround
14 succeeding? Great. All right.

15 So you can check the materiality element off.

16 Now we'll move to intent to defraud, and this is
17 pretty simple. The Judge will instruct you --

18 THE COURT: Okay. There's -- that other microphone
19 needs to be off.

20 MS. LYDON: I'm still using this. Yes, we can turn
21 the other microphone off.

22 THE COURT: Let's just have it off altogether. All
23 right?

24 MS. LYDON: Yes.

25 THE COURT: Speak. You're good. I think you're okay

1 now.

2 MS. LYDON: Terrific.

3 We'll get there. Thank you.

4 All right. The Judge will instruct you that intent to
5 defraud just means intent to deceive and cheat, and there's
6 ample evidence that Pooley intended to do both.

7 He knew he intended to deceive his victims. He knew
8 he couldn't award certifications because he wasn't an examiner.
9 His change in practice post-suspension, creating documents with
10 Yuri's signature preprinted instead of his own, shows he knew
11 he couldn't award ratings himself, and he also admitted that in
12 the deposition videos and the audio clips, which you'll have
13 with you in the jury room.

14 So when he told victims that he was the examiner and
15 held himself out as one and hid his suspension from them to get
16 their money, he intended to deceive them, and he acted with the
17 intent to cheat them.

18 People signed up for the tandem course thinking they
19 were going to get legitimate, aboveboard USPA and UPT ratings.
20 That's what they were paying for, and Pooley knew he wouldn't
21 and he couldn't deliver those.

22 At best, Pooley knew he could offer a hope and a
23 prayer of getting USPA and UPT ratings if somehow USPA and UPT
24 didn't notice the irregularities with the paperwork when he
25 submitted them. He knew the fraudulent paperwork he was

1 signing was likely to be discovered and that the skydivers, who
2 paid him over a thousand dollars each, would walk away with no
3 ratings and lost money.

4 And how do you know Pooley was aware that his ratings
5 would be under a cloud and might never result in ratings at
6 all, and certifications would be under a cloud and may never
7 result in ratings at all? Well, he acquired that knowledge
8 through his prior experience, his prior contacts and
9 disciplinary action by USPA and UPT.

10 Particularly after his suspension and retraining in
11 2014, he knew USPA and UPT had rules, that they investigated
12 violations of those rules and paperwork, specifically
13 diligently, and enforced them.

14 And he knew that when the red flags with paperwork
15 amounted to serious violations, tandem ratings were yanked.
16 Look at his experience in 2014. This candidate, Ezekiel, got
17 his ratings yanked.

18 This is an e-mail from Tom Nunan saying that Pooley
19 needed to advise Ezekiel, "He is not authorized to perform
20 tandem skydivings" -- "skydives using any equipment
21 manufactured by UPT."

22 Pooley had every reason to believe the tandem
23 candidates that he certified wouldn't get ratings or could lose
24 them when the fraud was discovered. And that's what happened.

25 Moreover, Pooley knew that USPA stayed in close

1 contact with tandem examiners because he was one. He knew that
2 that's how they worked and were likely -- that they were likely
3 to know Yuri Garmashov's geographic location. So he had to
4 know that his plan to sign paperwork using Yuri's signature
5 during a period where Yuri Garmashov was out of the country,
6 and hold all the paperwork till Yuri returned, in the hopes
7 that USPA and UPT wouldn't notice, was unlikely to succeed.

8 Keep in mind, though, that the exact odds of USPA and
9 UPT discovering the fraud, whether he had somehow carried off
10 and some ratings would eventually get issued, really doesn't
11 matter legally because once you conclude that Pooley knew that
12 his candidates were seeking legitimate, aboveboard tandem
13 instructor ratings, and that he knew he couldn't deliver those,
14 you know that he intended to cheat his victims.

15 So that's enough to conclude that Pooley acted with
16 the intent to defraud, and check off that third element.

17 But there's more. We have Pooley's statements both
18 after the fraud came to light. He told different things to
19 different people. He -- to victims, he had apologies and
20 promises of refunds but no actual refunds. To FAA, Pooley had
21 no answer to the facts. To USPA and UPT, he basically
22 confessed. And when the validity of that letter was
23 questioned, he wrote two more letters and got them notarized,
24 and told agents that he'd signed it without anyone forcing him.
25 And in depositions and to agents later, he made a serious of

1 excuses and false statements.

2 So when victims confronted him, he apologized. He
3 told Fabrisio Palomino, "You have no idea how sorry I am," and
4 said that he was trying for refunds.

5 These apologies make sense to victims. They knew the
6 deal. They -- I mean, they didn't know the deal. They knew
7 what they had agreed with Pooley. They thought that he was an
8 examiner, and he knew that because he had held himself out to
9 be one to them, so he couldn't gaslight them with the kind of
10 statements that he made in depositions and recorded interviews.

11 He knew he'd scammed them. E-mails like this one with
12 Palomino are straight-up admissions. They're true.

13 Refunds, of course, didn't happen. Fabrisio Palomino
14 paid for his own retraining.

15 His texts with Brad North are likewise revealing.
16 These are in evidence with you. And I know there's a lot of
17 words on this page, but I think they're really important
18 because they show what Pooley believed and what North believed
19 at the time.

20 North wrote on August 24th, "Ignoring me is not going
21 to make this go away, Rob. I need a gesture of good faith.
22 You intend on making the situation right by repaying the \$1100
23 I paid you to conduct a viable UPT/USPA tandem instructor
24 training course." "You are responsible for this, because the
25 choices you made to surreptitiously conduct a course while

1 being unsupervised and unqualified to conduct the course on
2 your own."

3 Brad wrote -- or, sorry -- Pooley wrote, "Brad, I'm
4 sorry. I did not intend to ignore you. It got late. I didn't
5 get to return your voicemails. I do want to give you your
6 refund."

7 Now, Brad North had long since gotten a different
8 phone by the time of trial. He and Pooley wrote these texts
9 candidly to each other in the moment. They weren't on a group
10 text or a message board. They weren't performing for anyone.
11 Brad was expressing exactly how Pooley had scammed him, to
12 Pooley.

13 So it's especially illuminating and credible how
14 precisely Brad articulates what he paid Pooley for and how
15 Pooley defrauded him. And it's especially revealing that
16 Pooley apologized, owning up to Brad's characterization and
17 acknowledging that he deserved a refund.

18 You know what Pooley didn't do in these
19 communications? He didn't tell victims they knew the deal. He
20 didn't tell Fabrisio Palomino -- when Fabrisio said, "I might
21 have to sue you," he didn't say, "You can't sue me. You knew
22 the whole time that I was suspended."

23 He didn't tell -- he didn't defend himself to Brad
24 North in these texts by saying, "You knew what was going on."

25 And after Fabian Munoz's course when Munoz was asking

1 for his paperwork and warning him he would need to contact USPA
2 and report him, Pooley didn't say, "You can't do that. You
3 were -- you knew it was a scam. You were in on it." He didn't
4 say those things because those things weren't true.

5 Now, on August 12, 2016, FAA inspector David Jensen
6 went to the Parachute Center and talked with Pooley and
7 confronted him with two facts; the fact of his USPA suspension,
8 first. Pooley -- David Jensen testified that Pooley had no
9 answer to that except to state that Bill Dause handled all the
10 paperwork.

11 Pooley also had no answer when Jensen confronted him
12 with the fact that Garmashov's signature was on Kwon's USPA and
13 UPT certifications while Garmashov was abroad. Didn't tell him
14 anything about supervising the course.

15 And Pooley signed the letter to USPA, explaining what
16 he did. He trained students without Yuri knowing, and he held
17 the paperwork, hoping it would somehow work out.

18 You saw this letter. It's in evidence, the
19 Government's 1100. And Pooley told agents years later he
20 wasn't forced to sign this letter.

21 (Media played.)

22 MS. LYDON: All right. You have -- okay.

23 And now we get to the lies. In depositions and to
24 agents, Pooley made a series of false statements. And making
25 false statements bears on your intent, because people who don't

1 intend to defraud don't need to lie about it.

2 For example, in depositions and to agents, Pooley
3 claimed he sent all the documents to Yuri.

4 (Media played.)

5 MS. LYDON: All right. Now, you heard Special Agent
6 Lee testify that he got a search warrant. He looked for those
7 documents. There's no evidence Pooley sent those documents to
8 Yuri.

9 Pooley falsely claimed to agents that he was not
10 suspended by UPT, the manufacturer, and, of course, he was. We
11 just looked at that a few minutes ago.

12 (Media played.)

13 MS. LYDON: He said, "The UPT stuff would have been
14 fine for him to sign with his own signature."

15 (Media played.)

16 MS. LYDON: There are more false statements and
17 contradictions in those audio clips. We're not going to go
18 through them all. He claims he personally verified Kwon had
19 licenses that Kwon didn't have. He claimed the examiner didn't
20 need to be at the drop zone. He knew that wasn't true.

21 And, basically, his intent to deceive and cheat is
22 revealed by his initial admissions followed by his lies. So
23 Pooley acted with the intent to deceive and cheat those tandem
24 instructor candidates. You can check that element off.

25 Moving on to the wires. Now, what the Judge says

1 controls, but a quick legal point: A wiring is any electronic
2 signal sent from one state or country to another. E-mail,
3 obviously, qualifies. Here, all the wire fraud counts are
4 e-mails.

5 The -- it has to be to carry out or attempt to carry
6 out an essential part of the scheme. It doesn't need to itself
7 contain false statements. The defendant doesn't need to be the
8 one to send it. It just has to be reasonably foreseeable to
9 the defendant that some wire communication would occur in
10 furtherance of the scheme.

11 And one more -- as I said at the beginning, the
12 overall -- they are in service of the overall scheme to
13 defraud. So, basically, these are just -- each charged e-mail
14 is just an instance in which Pooley used e-mail to carry out
15 that bigger scheme. Basically, these are examples.

16 So let's look at Count 1. It's that June 28th -- -his
17 bottom e-mail, the June 28, 2016, e-mail from Fabrisio Palomino
18 to Parachute Center. And communications like this one where
19 skydivers like Palomino e-mailed Parachute Center, seeking
20 tandem ratings from an examiner, were e-mails carrying out an
21 essential part of the scheme.

22 They're putting the tan- -- the paying customer, the
23 skydiving instructor -- want-to-be skydiving instructor in
24 touch with Parachute Center, who would, like Kathy Dause did in
25 this e-mail, forward the e-mail on to Pooley. That outreach

1 e-mail was essential.

2 It was also reasonably foreseeable of Pooley that
3 e-mails like this one would be sent. He received
4 communications like this, and Parachute Center received
5 communications like this all the time, bearing evidence --
6 there are a bunch in the 700 series. They'll be in the exhibit
7 room with you.

8 And Fabrisio Palomino testified that he sent this
9 e-mail from Ensenada, Mexico to Parachute Center in California.
10 So it's a foreign wire.

11 Count 2, this is the June 29, 2016, e-mail from
12 Palomino to Parachute -- to -- oh, I'm sorry. This is from Rob
13 Pooley to Palomino, explaining the details of the tandem course
14 in his -- providing this information was necessary to an
15 essential part of the scheme of getting tandem candidates like
16 Fabrisio Palomino to sign up for the course.

17 Pooley explained to Special Agent Lee in this
18 interview clip that this e-mail was very typical of how he
19 advertised and communicated with the students. Those are
20 essential objectives of the scheme to defraud.

21 (Media played.)

22 MS. LYDON: You hear that?

23 THE COURT: Not really.

24 MS. LYDON: All right.

25 THE COURT: We can hear it. I just don't think it's

1 very clear.

2 MS. LYDON: Fair enough. All right.

3 Well, it's -- your recollection of the evidence
4 controls, and you have the recordings.

5 But Pooley explained to Special Agent Lee, this e-mail
6 was very typical of how he advertised and communicated with the
7 students. That's the relevance, the relevant part. All right.

8 Count 3, this one is from Fabrisio Palomino on the 4th
9 of July of 2016, departing Mexico to Lodi, e-mailing Pooley to
10 get a question answered about his FAA medical. These sorts of
11 precourse communications are necessary and foreseeable in the
12 scheme. To quote Pooley's e-mail in Count -- in e-mails that
13 you've seen elsewhere, you must have your airman's medical done
14 before we can start the training.

15 So it's reasonably foreseeable to Pooley that he's
16 going to get questions about that requirement from tandem
17 candidates headed to Lodi to take his course, to pay him money.
18 And it was a foreign wire. Fabrisio Palomino testified that he
19 sent this e-mail while he was in his car, waiting to get to the
20 parking area, basically, to cross the border on the Mexican
21 side.

22 Finally, Count 4, this wire -- this e-mail from Rob
23 Pooley sending Lachlan Mackay's tandem ratings course
24 proficiency card to the USPA and Lachlan Mackay served an
25 essential part of the scheme. E-mailing USPA documents in, and

1 copying the tandem candidate served a function. It made the
2 tandem candidate think that things were moving along, and they
3 would soon have ratings.

4 This kept the broader scheme going, too, because the
5 tandem candidates would not raise the alarm, would not tell
6 their friends, their drop zone, their broader skydiving network
7 that Rob Pooley's classes didn't result in ratings and didn't
8 result in paperwork.

9 We'll talk about this in connection with this e-mail
10 quite a bit further in the presentation in the aggravated
11 identity theft count.

12 But it's important that Pooley's scheme was a rolling
13 one. It wasn't just one-offs. It was course after course
14 after course, student after student after student, and steps
15 like this that convinced students that things were moving
16 along, and even took a swing at moving things along, were an
17 essential part of keeping that fraud, that scheme going.

18 And it went interstate to Susan Sullivan at USPA in
19 Virginia. Ron Bell testified that he went down to their
20 records desk and found -- or their records room and found it in
21 a dungeon.

22 So you can check off that last element of wire fraud
23 and find the defendant guilty of the first four counts.

24 Now we'll turn to the aggravated identity theft
25 counts. To prove aggravated identity theft, the Government

1 must prove the following elements -- and, again, these are
2 simplified. Go with the instructions that the Judge will give
3 you. But I'm going to describe them in a simple way so that we
4 can understand what they're getting at.

5 First, the defendant used, without legal authority, a
6 means of identification of another person. Second, the
7 defendant knew it was a real person, that the means of
8 identification belonged to someone who's a real, live human.
9 And, third, the defendant used the means of identification
10 during and in relation to the crime of wire fraud charged in
11 the indictment -- the scheme charged in the indictment.

12 Basically, these counts are for using Garmashov's
13 signature to commit that wire fraud that we just talked about,
14 that scheme. Aspects of the first and third element relate to
15 how it was used to commit wire fraud, so I'm going to talk
16 about those as a chunk with respect to the third element.

17 And I'm referring to the use without legal authority.
18 We're going to get to that with the third element and discuss
19 it together.

20 So quick legal points relevant to the first element.
21 The means of identification here is a signature. The signature
22 doesn't have to be stolen or used without consent. Of course,
23 this doesn't matter so much for our case because there's just
24 no evidence of consent by Yuri over the summer of 2016.

25 According to Pooley in his signed letters, and

1 Garmashov's testimony, Garmashov did allow Pooley to put his
2 name and signature on paperwork earlier in the year when he was
3 at the drop zone, but he did not give permission to do it while
4 he was abroad.

5 So this legal point is not very implied here. It
6 doesn't need to be. And, here, the defendant used Garmashov's
7 signature, which you can see on his driver's license, on the
8 USPA and UPT forms, assuring them that they had been certified.

9 Here's how he used them with respect to specific
10 counts. He used the signature in Count 5 by giving Kwon the
11 paperwork covered in Garmashov's signature, which Garmashov
12 then used to train, and we'll talk about how that was in
13 furtherance of the scheme further for Element 3.

14 And Pooley used his signature when he sent this e-mail
15 from his e-mail address, parachutecentervideodesk@gmail.com, to
16 USPA and Lachlan Mackay. You know
17 parachutecentervideodesk@gmail.com belonged to Pooley due to
18 the attribution evidence that came in at trial, including
19 this -- the name on the account is Rob Pooley, the two-factor
20 authentication. The password change went to Pooley's e-mail.
21 We know he sent e-mails from it.

22 So you can check that first element off.

23 And the second element that Pooley knew the means of
24 identification belonged to a real person is uncontested.
25 Garmashov is a real person. You met him yesterday. Pooley

1 knew him.

2 So beyond that, not only did Pooley know that
3 Garmashov was a real person, he knew he was a person with just
4 the credentials that Pooley needed to keep making money,
5 despite his suspension.

6 He went to him -- he got that rolling right away.
7 Look at the timing. Tom Nunan from UPT, the manufacturer,
8 e-mailed Pooley August 11th -- or, I'm sorry -- August 18,
9 2015, and referred to a conversation last night, and sent the
10 suspension e-mail.

11 What was Rob Pooley doing last night relevant to this
12 e-mail. The night of August 17, 2015, Pooley started sending a
13 series of e-mails to himself.

14 Government Exhibit 908 is on the screen. Pooley
15 e-mailed himself Yuri's signature, and then in the next couple
16 hours, Pooley e-mails himself two more images of Garmashov's
17 and Pooley's own signatures and initials. The documents found
18 in his locker show Pooley immediately started using these
19 doctored signatures for the next class of candidates.

20 So Pooley knew Yuri was a real person, and he knew he
21 could use that real person to keep the money flowing in.

22 You can check off that second element.

23 And, third, he used the signatures during and in
24 relation to the crime of wire fraud.

25 Quick legal point. The uses of the signatures for the

1 aggravated identity theft counts, Counts 5 and 6, need to be in
2 furtherance of the overall wire fraud scheme charged in the
3 indictment. They don't need to be tied to any particular
4 wiring or any particular victim. It's the scheme.

5 So, here, the defendant's scheme to defraud involved a
6 rolling series of classes, and Pooley needed to deliver
7 signatures to keep those classes going.

8 You'll recall Pooley ran some organized classes of --
9 of a group of people, like the two classes that Fabian Munoz,
10 Brad North, Kwon attended. He also had one-offs like Fabrismo
11 Palomino. Pooley wrote in those copy/paste e-mails to
12 interested tandem candidates that "You can show up whenever you
13 want." And by filling out the paperwork with Garmashov's
14 signatures, and in Count 6, of sending it to USPA, Pooley was
15 attempting to keep his students happy or at least placated, and
16 avoid word from getting out in the small skydiving community
17 that those -- his classes didn't work. That served the
18 function of keeping those classes filled and keeping the money
19 coming in.

20 So for both Counts 5 and 6, you can infer from the
21 circumstances and what Pooley did that the uses of the
22 signature functioned to lull those particular victims, to
23 convince them everything was okay and, also, more broadly, to
24 further the scheme and prevent detection.

25 Now, how exactly does the signature have to be used

1 there for purposes of wire fraud? You'll get a jury
2 instruction on this. It explains the signature must be used in
3 a manner that is fraudulent or deceptive to tandem instructor
4 candidates, and at the crux of what makes the conduct criminal.

5 Basically, in plain English, use of the signature has
6 to be important to the scheme to defraud. It can't be
7 irrelevant, ancillary, to the side. It has to be kind of --
8 part of it has to matter who the signature belonged to, who it
9 was, what -- it had to matter what it signified.

10 And, here, Garmashov's signature was the crux of the
11 fraud because he was a certified examiner and Pooley wasn't.
12 That was the whole scam. The victims knew that they needed
13 signed documents by an examiner, a certified currently rated
14 one, to get their ratings.

15 (Media played.)

16 MS. LYDON: And Pooley knew that he needed the
17 signature of a real examiner to pull that off.

18 Now, let's talk about how he used that signature in
19 each particular count. All right.

20 So Count 5, he provided Kwon fraudulent certification
21 cards. He acted during and in relation to his wire fraud
22 scheme when he did so, when he did those -- provided those
23 cards bearing Garmashov's signature.

24 He intended to have this be a picture of the cards.
25 But you've seen the picture of those cards. You know exactly

1 what they look like. They have a date on them, July 1st.
2 That's the date that Garmashov was out of the country. And
3 Pooley handed Kwon those cards, you can infer.

4 Kwon signed it himself in Korean. Pooley admitted
5 that he trained Kwon. And when Kwon received that filled-out
6 paperwork, purportedly containing an examiner signature, he
7 thought, you can infer, he got what he paid for. And
8 accordingly, he started jumping as a tandem instructor. You
9 can infer that Pooley believed that Kwon believed those
10 representations, based on his actions. Fabrisio Palomino and
11 Pete Swan both testified that they saw Kwon jumping with
12 customers.

13 Compare this, Kwon jumping, thinking he's certified,
14 and not raising an alarm and not doing anything that would
15 disrupt Pooley's ongoing scheme, to the reactions of skydivers
16 when Pooley didn't deliver signed paperwork, specifically
17 Fabian Munoz.

18 So Fabian Munoz saw that other people in his class had
19 received paperwork with someone else's signature on it. And he
20 went to Pooley and said, "I need the paperwork, and I need you
21 to sign it." And he didn't get it. And he testified he asked
22 Pooley every day, in his words, morning, afternoon, and night,
23 for a week before he left to go back to his country.

24 He testified that he told the defendant, "Before
25 returning to my country, I have to have these documents. If I

1 fail to get them, I failed to achieve my objective of coming to
2 Lodi to take the tandem instructor courses."

3 And Fabian Munoz eventually told Pooley, "If you don't
4 give me the document, I'll have to report you to USPA." Pooley
5 said, "No, no. Don't do that. Everything is all right. I'll
6 give you your documents." While Fabian was in Chile, he sent
7 Pooley messages to Facebook asking for them again. Pooley
8 didn't respond.

9 So keeping his victims satisfied functioned to keep
10 them happy, made them think they got their ratings, and enabled
11 Pooley to continue his overall scheme.

12 Count 6, by sending this e-mail and the attachment
13 with the signatures to USPA and Mackay, again, it served to
14 keep the scheme rolling. The pressure -- this is August 2nd.
15 The pressure to send in the forms was real -- oh, this was
16 August 1st -- was real at this stage in the defendant's scheme.

17 The evidence indicates Pooley hadn't been able to send
18 in the forms all summer because Garmashov was abroad and USPA
19 knew it, and candidates were getting impatient. You saw that
20 from the text messages from Brad North and to Palomino's
21 testimony.

22 32-R is -- are the texts with Brad North in which he
23 repeatedly texted the defendant, asking, "Hey, have you sent it
24 in yet?" "Where's this paperwork?" "Has it gone out?"

25 Fabrisio Palomino e-mailed the defendant to mail it to

1 him so that he could send it in himself when the defendant
2 didn't send it in for weeks.

3 All three of the testifying victims explained they
4 were extremely focused on getting their paperwork to USPA, and
5 you can infer that the rest of the tandem instructor candidates
6 were no different.

7 So if Pooley never e-mailed the forms, he would
8 eventually be reported. He was on the clock.

9 So the night before Yuri was supposed to return to the
10 United States, Pooley sent this e-mail in Count 6. This one
11 seems to have been an attempt to get Mr. Mackay a rating.

12 He attached the tandem paperwork with Garmashov's
13 signature. He signed his e-mail "Yuri." It furthered the
14 ongoing scheme in an important way. It lulled the candidate.
15 It attempted to get him a rating. And by sending it, Pooley
16 attempted to prevent the scheme's detection; a critical
17 function of this e-mail.

18 And the signature mattered. It mattered who it was.
19 It had to be Garmashov's signature. It couldn't be Pooley's.
20 It couldn't be somebody who wasn't an examiner.

21 Jim Crouch testified that Susan Sullivan had gotten to
22 know individual examiner's signatures. She could detect
23 forgeries. USPA checked signatures, along with the names
24 accompanying them.

25 USPA, obviously, wouldn't have issued a rating if

1 Pooley had sent it using his own signature, and the whole
2 scheme would have blown up in his face.

3 So you can check off that last element of the
4 aggravated identity theft counts and convict Pooley.

5 So that's the evidence. The standard you will apply
6 is beyond a reasonable doubt. That means proof that leaves you
7 firmly convinced. The Government always bears the burden of
8 proof. We welcome that standard, and to meet it, we've
9 presented evidence that satisfies every element of every
10 charged offense. We -- as well as context, evidence of context
11 to understand this defendant's scheme and his intent.

12 We sincerely appreciate your attention and your focus
13 and your service during this trial while we did that.

14 A few quick things on that standard. It's not proof
15 beyond all doubt. The doubt must be reasonable. This is not
16 an exercise in unreasonable debate. A reasonable doubt --
17 you'll get an instruction on this -- is a doubt based on reason
18 and common sense, not based on pure speculation.

19 You don't throw common sense out during this process.
20 Use it the way you would in your everyday life.

21 Does it make sense, the idea that the victims were
22 defrauded but were -- that were -- that victims were not
23 defrauded but were actually somehow in on the scheme? Does it
24 make sense that they traveled thousands of miles, across
25 borders in some instances, to get certified by a suspended

1 examiner using a fraudulent signature?

2 Does it make sense that Pooley could have held himself
3 out as an examiner and kept the fact of his suspension from the
4 victims without intending to cheat them?

5 You don't leave your common sense at the door when you
6 go into that jury room, so use it.

7 Once you do, I ask that you return the only verdict
8 consistent with the law and the evidence in this case, and
9 that's guilty on all counts.

10 Thank you.

11 (Government's closing arguments concluded at
12 10:20 a.m.)

13 -oOo-

14 **C E R T I F I C A T E**

15 I, Abigail R. Torres, certify that I am a duly
16 qualified and acting Official Court Reporter for the United
17 States District Court; that the foregoing is a true and
18 accurate transcript of the proceedings as taken by me in the
above-entitled matter on May 23, 2024, and that the format used
complies with the rules and requirements of the United States
Judicial Conference.

19 Dated: May 29, 2024
/s/ Abigail R. Torres

20 Abigail R. Torres, RPR/RMR, FCRR
21 CSR No. 13700
22 U.S. Official District Court Reporter
23
24
25